

**DEPARTMENT OF STATE REVENUE**

28920938.LOF

**LETTER OF FINDINGS NUMBER: 92-0938 CS**

**Controlled Substance Excise Tax**

**For Tax Period: 09/04/92**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE**

**I. Controlled Substance Excise Tax – Imposition**

**Authority:** IC 6-7-3-5

Taxpayer protests the imposition of the Controlled Substance Excise Tax.

**STATEMENT OF FACTS**

Taxpayer was arrested on September 4, 1992, for possession of 104.7 grams of marijuana. The Department assessed the Controlled Substance Excise Tax based on the weight of the marijuana. Taxpayer protested the assessment of the Controlled Substance Excise Tax. Additional relevant facts will be provided below, as necessary.

**I. Controlled Substance Excise Tax – Imposition**

**DISCUSSION**

Indiana Code section 6-7-3-5 provides for the imposition of the controlled substance excise tax on controlled substances that are:

- (1) delivered;
- (2) possessed; or
- (3) manufactured;

in Indiana in violation of IC 35-48-4 or 21 U.S.C. 841 through 21 U.S.C. 852.

Taxpayer was arrested for possession of marijuana. The Department's assessment was based upon the weight of the marijuana.

Taxpayer protested the assessment of the Controlled Substance Excise Tax. The Department attempted to contact the taxpayer in order to schedule an administrative hearing. The Department used the best information available in the attempt to contact the taxpayer. Taxpayer failed to respond to any correspondence and failed to attend the administrative hearing scheduled to hear his protest. Taxpayer has failed to prove he was not in possession of a controlled substance and not responsible for the Controlled Substance Excise Tax on the 104.7 grams of marijuana.

**FINDING**

Taxpayer's protest is denied.